

INTERNAL REVENUE SERVICE

DISTRICT DIRECTOR

Department of the Treasury

Person to Contact:

Telephone Number:

Date:

JUL - 6 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted shows that you were incorporated [REDACTED] for the following purposes:

- (A) Provide and promote educational, health and nutritional care and services for [REDACTED] and [REDACTED] children.
- (B) Provide and promote the development of sound day care for pre-school age children and the physically disabled.
- (C) To assist and participate in programs of any agency, private, State or Federal, whose concerns are consistent with the purposes stated above.
- (D) To perform any and all services necessary and desirable to support and achieve the herein stated purposes. This corporation shall operate in a fashion consistent with the requirements for tax exempt organization under section 501(c)(3) of the Internal Revenue Code of 1954, or the corresponding provisions of any future U.S. Internal Revenue Code provision which may be applicable to 501(c)(3) exempt status.

You are a sponsoring organization of the [REDACTED] administered under the supervision of the [REDACTED]. As a sponsoring organization, you entered into a master agreement with the [REDACTED] to be responsible for the administration of the food program with home child care providers. Your activities include recruiting home child care providers, consulting with providers to ensure that meals meet prescribed standards, conducting nutritional workshops, visiting the providers to monitor compliance with the food program, and assisting providers in obtaining food cost reimbursements from the [REDACTED]. Your activities are conducted in [REDACTED] and you have been operational since [REDACTED]. It is indicated that you have three employees, a Director and two monitors. Your Director is one of your original incorporators and a member of your initial Board of Directors.

On November 18, 1997, your Director was indicted by a [REDACTED] for submitting false statements to the [REDACTED] as to your tax exempt status in violation of [REDACTED] United State Code, Section [REDACTED]. It was also alleged that your Director made false statements to the Department of Human Resources as to the number of [REDACTED] under your administration. The indictment charges in [REDACTED] that from [REDACTED] through [REDACTED] your director committed mail fraud by submitting false claims for reimbursement for meals and snacks by using the names of [REDACTED] who did [REDACTED]

not participate in the program and inflated claims of [REDACTED] that did participate in the program. [REDACTED], your Director was convicted of mail fraud; making a false statement; money laundering; and aiding and abetting a crime against the United States.

Section 501(c)(3) of the Code provides an exemption from Federal Income Tax for organizations organized and operated exclusively for charitable, educational, and other purposes, including lessening burdens of government, if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serve public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his/her family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In *Better Business Bureau v. U.S.*, 326 U.S. 279 (1945), the Supreme Court states that the presence of even a single non-exempt purpose, if more than insubstantial in nature, will defeat exemption under section 501(c)(3) of the Code, regardless of the number or importance of the truly exempt purposes.

Revenue Ruling 75-384, 1975-2 C.B. 204, holds that a non-profit organization formed to promote world peace and disarmament by nonviolent direct action and whose primary activity is the sponsoring of anti-war protest demonstrations in which the demonstrators are urged to commit violations of local ordinance and breaches of public order does not qualify for exemption under sections 501(c)(3) or 501(c)(4) of the Code.

IV Scott on Trusts, 377 (3d ed. 1967), states that all charitable trusts (and by implication all charitable organizations, regardless of their form) are subject to the requirement that purposes may not be illegal or contrary to public policy.

You are not operated exclusively for exempt purposes of section 501(c)(3) of the Code. The actions of your Director indicated that you were formed for private interests, and not public purposes; and that you have operated contrary to public policy.

Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 or under any related paragraph of the Internal Revenue Code. Contributions to you are not deductible under section 170 of the Code. You must file Federal income tax returns.

If you do not agree with our proposed denial, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law and other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office.

[REDACTED]

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it with the Internal Revenue Service."

If we do not hear from you within 30 days, this ruling will become our final determination on this matter. Also, appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

Because this letter could help resolve any questions about your exempt status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



District Director  
Southeast Key District

Enclosure:  
Publication 892